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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,327	01/20/2004	Michael Panosian	P-0328 OL	9804

7590

11/15/2004

LACKENBACH SIEGEL

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Scarsdale, NY 10583

EXAMINER

FULTON, CHRISTOPHER W

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,327

Applicant(s)

PANOSIAN, MICHAEL

Examiner

Christopher W. Fulton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-20 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-9 and 11 is/are rejected.
- 7) ☐ Claim(s) 5 and 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. Claims 1, 2, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Potter.

The device as claimed is disclosed by Potter with a tape measure 10 with a lock 34 having a first tape 24 having a scale stored in the tape measure housing and extendable therefrom, a second tape 70 having a scale 92 the same as the first scale and fully removable from a guide 18 in the tape measure.

3. Claims 1, 7, 8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ljungberg ('534).

The device as claimed is disclosed by Ljungberg with a tape measure 2 with a lock 28 having a first tape 11 having a scale stored in the tape measure housing and extendable therefrom, a second bendable tape 15 having a scale the same as the first scale, a scale different from the first scale and being removable from a guide 16 in the tape measure.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ljungberg ('534) in view of Ricalde.

The device as claimed is disclosed by Ljungberg as stated in the rejection recited above for claims 1, 7, 8, and 11, but lacks the second removable tape being fully removable from the tape housing.

Ricalde teaches a removable tape 560 that is fully removable from a tape housing to be used in conjunction with a first extendable tape. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the secondary tape of Ljungberg fully removable from the tape housing as taught by Ricalde to make the second tape more versatile in how it can be used in conjunction with the first tape.

6. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ljungberg ('534) in view of Cook.

The device as claimed is disclosed by Ljungberg as stated in the rejection recited above for claims 1, 7, 8, and 11, but lacks the second scale being an engineering or architectural type scale.

Cook teaches using an engineering or architectural type scale in a tape measure to provide an alternative type measurement. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the secondary scale of Ljungberg an engineering or architectural scale as taught by Cook to provide the device with more alternatives in scale usage.

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7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ljungberg ('534).

The device as claimed is disclosed by Ljungberg as stated in the rejection recited above for claims 1, 7, 8, and 11, but lacks the specific clip claimed.

Official notice is taken that the type of clip claimed is an old and well known type clip used with tape measures. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use any old and well known type clip in Ljungberg to attach the tape measure to the belt of the user.

Allowable Subject Matter

8. Claims 12-20 are allowed.

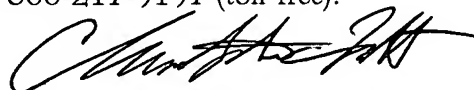
9. Claims 5 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (571) 272-2242. The examiner can normally be reached on M-Th 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher W. Fulton
Primary Examiner
Art Unit 2859

CWF